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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,944	10/26/2000	Teruo Wakashiro	001452	4729

7590 11/14/2002

Armstrong Westerman Hattori  
McLeland & Naughton  
1725 K Street NW  
Suite 1000  
Washington, DC 20006

EXAMINER
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GONZALEZ, JULIO C

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 11/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/695,944

**Applicant(s)**

WAKASHIRO ET AL.

**Examiner**

Julio C. Gonzalez

**Art Unit**

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the output assist determination device and the determination threshold value changer as disclosed in claim 1 and the determination threshold value change prohibiting device as disclosed in claim 2 and the terminating device as disclosed in claim 3 and the reduction device as disclosed in claim 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-13 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to

enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claims disclosed several devices like an output assist determination device, a determination threshold value changer, terminating device, etc.

From the specifications, it seems like if these “devices” are actually steps (e.g. output assist determination device is referred as steps S122, S135) in a control method or commands in a program for a microprocessor/microcontroller.

What makes these “devices” do what is disclosed in the claims? Are these physical devices or parts of a vehicle or fragments of a computerized program?

From claims 1-7, the claims disclose devices and not steps.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 8, it is disclosed an output assist determination device which assists. In what way this device “assists”? Does it provide extra power to the engine? Does it regulate the engine? The electric motor? What is meant by

assisting "the output from the engine by the motor"? Is the motor like an intermediate device?

How this device assists the output? What is considered to be the output from the engine? Torque output? Fuel efficiency output?

About the determination threshold value changer, is this a physical device or a fragment of a program? What threshold value does it changes? The fuel threshold value? The air-fuel ratio threshold value? The air-fuel threshold mixture value?

How does it changes the value?

In claims 2 and 9, how does the determination threshold value change prohibiting device prohibits the operation of the determination threshold value changer? Is this another physical device or a fragment of a computerized program? What is meant by "prohibiting the operation"? Stopping the operation?

In claims 3 and 10, how the terminating device over rides the determination threshold value change prohibiting device? Is this a physical device? Could this device be point out in figure 1?

In claims 4 and 11, where in the reduction device located? Can also this device be point out in figure 1? How does it reduce the oxygen?

In order to advance prosecution in the merits, the Prior Art will be applied as best understood by the examiner.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ibaraki in view of Tamagawa et al and Shimasaki et al.

Ibaraki discloses a control system for a hybrid vehicle (see title) which has a motor 3, a power storage 14, an engine 1, a controller (see figure 1) wherein the motor assist the engine.

However, Ibaraki does not disclose explicitly using controlling the engine by controlling the air-fuel ratio.

On the other hand, Tamagawa et al discloses for the purpose of properly controlling the assistance of the motor to the combustion engine that the engine may be controlled by using the air-fuel ratio (see figure 24).

However, neither Ibaraki nor Tamagawa disclose using a motor as a generator.

On the other hand, Shimasaki et al discloses for the purpose of generating electric energy efficiency in a hybrid vehicle that it is known in the art to use a motor as a generator (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a control system as disclosed by Ibaraki and to use the air-fuel ratio for the purpose of properly controlling the assistance of the motor to the combustion engine as disclosed by Tamagawa et al and to use a motor as a generator for the purpose of generating electric energy efficiency as disclosed by Shimasaki et al.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

### ***Allowable Subject Matter***

9. Claims 3 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. Claims 4-7 and 11-13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.



***Conclusion***

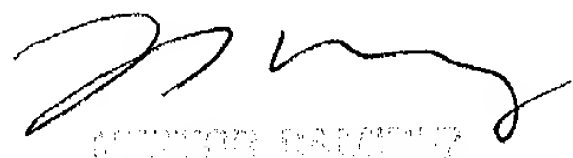
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is (703) 305-1563. The examiner can normally be reached on M-F (8AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Jcg

November 7, 2002

  
NESTOR RAMIREZ  
SUPERVISOR  
TECHNICAL SERVICES DIVISION